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12 **UNITED STATES DISTRICT COURT**  
13 **FOR THE DISTRICT OF ARIZONA**

14 Puente, an Arizona nonprofit corporation;  
15 Poder in Action, an Arizona nonprofit  
16 corporation; Ira Yedlin; Janet Travis;  
17 Cynthia Guillen; Jacinta Gonzalez  
18 Goodman, individually and as class  
19 representatives,

18 Plaintiffs,

19 v.

20 City of Phoenix, a municipal corporation;  
21 Jeri L. Williams; Benjamin Moore; Douglas  
22 McBride; Robert Scott; Christopher  
23 Turiano; Glenn Neville; John Sticca; Lane  
24 White; Jeffrey Howell; George Herr,  
25 individually and in their official capacities;  
26 and Does 1-20.

25 Defendants.

Case No.:

**CLASS ACTION FOR DAMAGES,  
INJUNCTIVE AND DECLARATORY  
RELIEF; DEMAND FOR JURY**

1. **EXCESSIVE FORCE (42 U.S.C. § 1983 FOURTH AND FOURTEENTH AMENDMENTS)**
2. **FREEDOM OF SPEECH AND ASSOCIATION (42 U.S.C. § 1983 FIRST AND FOURTEENTH AMEDMENTS)**
3. **DUE PROCESS (42 U.S.C. § 1983 FOURTEENTH AMENDMENT)**
4. **EQUAL PROTECTION (42 U.S.C. § 1983 FIRST AND FOURTEENTH AMENDMENTS)**

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## **INTRODUCTION**

1. This is a class action to enforce Plaintiffs' fundamental constitutional rights of speech and association, and to be free from excessive police force and from discrimination and harm by law enforcement based on the content of their speech. On the night of August 22, 2017, a force of close to 900 officers of the Phoenix Police Department ("PPD") conducted an unannounced attack on Plaintiffs and hundreds of others who had gathered outside the Phoenix Convention Center to protest in connection with a speech by President Trump; the goal of this assembly was to demonstrate strong disagreement with President Trump's and his supporters' racist and anti-immigrant policies and views. Defendants knew that most, if not all, of those the police attacked were acting in a peaceable manner, but disregarded the well-being of these anti-Trump protestors as well as well-established constitutional mandates and police policies. PPD personnel indiscriminately fired harmful pepper spray, gas, pepper bullets, and flash-bang cannisters into the assembled crowd, which included children, elderly people, disabled people, and pregnant women. The failure of the Phoenix Police to warn the peaceably assembled crowd of the coming attack, as is required by the Constitution, and to provide for a safe dispersal route for the protestors to avoid the police onslaught, guaranteed the ensuing widespread panic and fear amongst those assembled and resulted in physical and emotional injuries, as well as constitutional violations.

2. Defendant Chief of Phoenix Police Jeri L. Williams predictably had fulsome praise for the Phoenix Police personnel at the scene of the attack on the assembled crowd; as then-Mayor Greg Stanton stood by, she wholeheartedly endorsed and ratified the actions taken by Phoenix Police officers. City Manager Ed Zuercher also praised the police for their conduct at the gathering. Despite a significant increase in the Phoenix Police Department's use-of-force incidents against civilians, including the events of August 22, 2017, and many other police-on-civilian shootings, City officials, including the Police Chief, the Mayor, the City Manager, and the City

1 Council members have failed to condemn this police violence and to take any  
2 meaningful steps to stop it, reduce it, or address the trauma that police violence causes  
3 to individuals, families, and communities in the City of Phoenix. To date in 2018, there  
4 have been thirty-seven officer-involved shootings by the Phoenix Police resulting in  
5 eighteen deaths (plus another death by taser), more than during the entire year of 2017.

6 3. This action seeks injunctive relief to restrain the Phoenix Police  
7 Department's use of excessive force against civilians and to prohibit future disruptions  
8 of the peaceable exercise of First Amendment rights. Absent the Court's intervention,  
9 those who wish to gather and speak will continue to experience understandable fear of  
10 police retaliation when participating in protests, demonstrations, and marches,  
11 particularly when expressing anti-Trump views. This action also seeks damages to  
12 compensate Plaintiffs and the class they represent for the denial of their First  
13 Amendment rights on August 22, 2017, and for the physical injuries and emotional  
14 harms resulting from the Phoenix Police Department's excessive use of force.

#### 15 **JURISDICTION AND VENUE**

16 4. This action arises under 42 U.S.C. § 1983 and the laws and  
17 Constitution of the United States. Jurisdiction lies under 28 U.S.C. §§ 1331, 1343, and  
18 1367. The Court has jurisdiction to issue declaratory and/or injunctive relief pursuant  
19 to 28 U.S.C. §§ 2201 and 2202 and Federal Rule of Civil Procedure 57. The Court has  
20 authority to award attorneys' fees under 42 U.S.C. § 1988(b).

21 5. Venue properly lies within this District under 28 U.S.C. § 1391(b). The  
22 Defendants are all public officials or other employees or agents of the City of Phoenix,  
23 as well as the City itself. Each of the Defendants resides within this District and/or  
24 performs official duties within the State of Arizona. This Court, accordingly, has  
25 personal jurisdiction over each of the Defendants.

26 6. The named Defendants perform their official duties in this District, and  
27 a substantial part of the events or omissions giving rise to Plaintiffs' claims have  
28 occurred or will occur in this District.

**PARTIES**

***Organizational Plaintiffs: Injunctive Class Representatives and Damages Plaintiffs***

7. Plaintiff Puente is a grassroots nonprofit membership organization based in Phoenix, Arizona. Puente's mission is to develop, educate, and empower migrant communities through lobbying, advocacy, and activism. Puente provides free English classes, media trainings, know-your-rights workshops, health and wellness trainings, educational programs for children, and other services. As part of their efforts to support migrant communities, Puente members frequently organize and participate in community events and demonstrations in Phoenix. Puente members believe that the Phoenix Police Department's continued unlawful use of force against organizers and protesters will deter and dissuade members and the public from participating in Puente and community organized Phoenix demonstrations in the future. Members and supporters of Puente have been chilled from participating in political expressive activities by the PPD's improper, excessive, and unconstitutional uses of force. Puente expended significant time and resources to organize and participate in the protest on August 22, 2017, to convey the message that the racist and anti-immigrant policies of the Trump administration must end; Defendants' actions stopped this message from reaching its intended audience. Puente members and supporters believe that they will be targeted for violent PPD retaliation if they attend future demonstrations, especially when espousing anti-Trump messages. Puente also suffered out-of-pocket damages as a result of the PPD's unlawful actions on August 22, 2017, including for lost equipment employed at demonstrations and other events. Members were violently denied their rights to speech and association.

8. Plaintiff Poder in Action ("Poder") (formerly the Center for Neighborhood Leadership) is a grassroots nonprofit organization based in Phoenix, Arizona. Poder's mission is to build power with people impacted by injustice through leadership development, civic engagement, and policy advocacy. Poder's work includes advocacy on immigration, education, and police brutality. Poder regularly

1 organizes and participates in protests and political expressive activities in Phoenix to  
2 raise awareness on issues impacting black, brown, and migrant communities, including  
3 police violence. Poder representatives believe that the PPD's continued unlawful use of  
4 force against organizers and protesters will deter and dissuade their supporters and the  
5 public from participating in such Phoenix protests in the future. Members and  
6 supporters of Poder are chilled from participating in political expressive activities by  
7 the PPD's demonstrated improper, excessive, and unconstitutional uses of force against  
8 protesters. Poder expended significant time and resources to organize and participate in  
9 the protest on August 22, 2017, to convey the message that the racist and anti-immigrant  
10 policies of the Trump administration must end. Defendants' actions stopped this  
11 message from reaching its intended audience, which included President Trump and his  
12 supporters.

13 ***Injunctive and Damages Class Representatives***

14 9. Plaintiff Janet Travis is, and was at all relevant times, a resident of  
15 downtown Phoenix. Ms. Travis attended the protest to witness first-hand and join the  
16 opposition to Trump, to document the protest, and to express her own views critical of  
17 Trump's policies to Trump supporters. PPD gassed Ms. Travis causing her to inhale  
18 pepper spray, and brutally shot her multiple times with unidentified projectiles in the  
19 upper back, lower back and buttocks, causing her injuries and emotional trauma so  
20 severe she could not continue her expressive activities and had to seek medical  
21 attention. Ms. Travis wants to continue to be active in political rallies and protests in  
22 her community, but is concerned that the PPD will continue to target peaceful  
23 protesters. Ms. Travis is chilled from participating in future protests and politically  
24 expressive activities in Phoenix without significant reform to the Phoenix Police  
25 Department's policies, practices ,and procedures concerning the use of force against  
26 peaceful protesters and protecting speech and associational rights.

27 10. Plaintiff Ira Yedlin is a resident of Bisbee, Arizona, and a strong critic  
28 of President Trump's politics, policies, and leadership. Mr. Yedlin has attended

1 numerous protests since the Vietnam War and considers it his civic duty to participate  
2 in protests when he disagrees with government action. Mr. Yedlin and his wife attended  
3 the August 22, 2017 protest in Phoenix to express to Trump and his supporters their  
4 dissatisfaction with how President Trump governs the country. PPD gassed Mr. Yedlin  
5 causing him to inhale pepper spray, and violently shot him multiple times with  
6 unidentified projectiles in the face, upper torso, and leg area. PPD injured Mr. Yedlin's  
7 face so severely that he could not continue to protest and had to seek treatment for his  
8 injuries in a hospital emergency room. Mr. Yedlin desires to continue to be active in  
9 political rallies and protests in Phoenix, but believes that the PPD will continue to target  
10 peaceful protesters. Mr. Yedlin is chilled from participating in future protests and  
11 politically expressive activities in Phoenix without significant reform to the Phoenix  
12 Police Department's policies, practices, and procedures concerning the use of force  
13 against peaceful protesters and protecting speech and associational rights.

14 11. Plaintiff Cynthia Guillen is a resident of Mesa, Arizona, and an active  
15 participant in demonstrations in the Phoenix metropolitan area. Ms. Guillen participated  
16 in the demonstration against President Trump on August 22, 2017, to make her  
17 objections to this policies to his supporters. PPD gassed Ms. Guillen causing her to  
18 inhale pepper spray, and senselessly shot her in the lower stomach and hip with  
19 unidentified projectiles. The impact of PPD's projectiles caused Ms. Guillen external  
20 and internal injuries that required her to leave the protest and seek medical attention;  
21 she has had ongoing medical treatment. Ms. Guillen is chilled from participating in  
22 future protests and politically expressive activities in Phoenix without significant  
23 reform to the Phoenix Police Department's policies, practices, and procedures  
24 concerning the use of force against peaceful protesters and protecting speech and  
25 associational rights.

26 12. Plaintiff Jacinta Gonzalez Goodman is a resident of Phoenix, Arizona,  
27 and a long-time activist and organizer. Ms. Gonzalez Goodman volunteers with Puente  
28 and works with Mijente, a national civil rights organization focused on building

1 leadership and social change in the Latinx community. Ms. Gonzalez Goodman  
2 participated in the demonstration against President Trump on August 22, 2017, to  
3 express her disagreement with the President and his supporters' vision for the country,  
4 to peacefully show solidarity with her community, and to demonstrate to Trump and  
5 his supporters the intense public opposition to the President's policies and goals. Ms.  
6 Gonzalez Goodman participated in the planning of the protest, and during the protest  
7 served as a liaison between the protesters and PPD. PPD gassed Ms. Gonzalez  
8 Goodman, causing her to inhale pepper spray, which caused injuries to her lungs and  
9 eyes that lingered for a day, and forced Ms. Gonzalez Goodman to leave the protest  
10 before she could deliver her message to her intended audience. Ms. Gonzalez Goodman  
11 is chilled from participating in future protests and politically expressive activities in  
12 Phoenix without significant reform to the Phoenix Police Department's policies,  
13 practices, and procedures concerning the use of force against peaceful protesters and  
14 protecting speech and associational rights.

### 15 *Defendants*

16 13. Defendant City of Phoenix is a municipal corporation, organized and  
17 existing under the laws of the State of Arizona. The Phoenix Police Department is an  
18 agency of the City of Phoenix, and all actions of the PPD are the legal responsibility of  
19 the City.

20 14. Defendant Jeri L. Williams is, and was at all relevant times, the Chief  
21 of Police for the City of Phoenix. As such, Chief Williams is the final policy maker for  
22 the City of Phoenix in the area of law enforcement and in setting and implementing the  
23 policies and practices of the PPD including but not limited to the development,  
24 implementation, and the training of PPD personnel in these and all PPD areas, including  
25 the procedures, policies, regulations, and practices related to the proper use of force and  
26 the need for prior warnings, in response to political protests, and public demonstrations,  
27 and marches. At all relevant times, Chief Williams was responsible for the development  
28 of policies concerning protests and the protection of participants' basic rights of speech



1 and association, for making these policies known to all PPD personnel, and for ensuring  
2 that all members of the PPD were adequately and consistently trained in their meaning  
3 and implementation, as well as in all relevant constitutional requirements and police  
4 best practices. Chief Williams was responsible for the training and preparation of PPD  
5 personnel with respect to the events of August 22, 2017, and she approved and/or  
6 ratified the PPD's plans for that event including the unconstitutional acts complained  
7 of herein. As set out below, Chief Williams failed to establish sufficient guidelines and  
8 regulations governing the PPD in the situation presented on August 22, 2017, and did  
9 not ensure adequate training before the event, or properly supervise and monitor the  
10 actions of PPD personnel during the protest. As set out below, after becoming aware of  
11 the events and the actions of PPD on the scene, Chief Williams praised the members of  
12 the PPD with then-Mayor Stanton by her side, and fully ratified the actions of PPD  
13 personnel. City Manager Ed Zuercher also praised and ratified the PPD's decisions and  
14 actions complained of herein. Chief Williams is sued in her official and individual  
15 capacity.

16       15. Defendant Benjamin Moore is a Lieutenant with the PPD. On August  
17 22, 2017, he was designated as the "Alpha Leader" and "Field Force Commander" in  
18 charge of all PPD units working the night of the Trump rally and protest. Lt. Moore  
19 gave the initial improper orders for PPD officers to use force against anti-Trump  
20 protestors that resulted in indiscriminate attacks against hundreds of peaceable  
21 protestors without warnings and before any unlawful assembly had been declared.  
22 Plaintiffs sue Lt. Moore in his official and individual capacity.

23       16. Defendant Douglas McBride is a Sergeant with the PPD. On August  
24 22, 2017, he was assigned as the "Grenadier Team Leader" for the Trump rally and  
25 protest. According to PPD, grenadiers are "specialty trained officers on deployment of  
26 chemical munitions." Plaintiffs sue Sgt. McBride in his official and individual capacity.

27       17. Defendant Robert Scott is an officer with the PPD who was assigned  
28 to the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,

1 Officer Scott indiscriminately fired on and injured Plaintiffs without warning. Plaintiffs  
2 sue Officer Scott in his official and individual capacity.

3 18. Defendant Christopher Turiano is an officer with the PPD who was  
4 assigned to the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth  
5 herein, Officer Turiano indiscriminately shot and injured Plaintiffs without warning.  
6 Plaintiffs sue Officer Turiano in his official and individual capacity.

7 19. Defendant Glenn Neville is an officer with the PPD who was assigned  
8 to the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,  
9 Officer Neville indiscriminately shot and injured Plaintiffs without warning. Plaintiffs  
10 sue Officer Glenn in his official and individual capacity.

11 20. Defendant John Sticca is an officer with the PPD who was assigned to  
12 the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,  
13 Officer Sticca indiscriminately shot and injured Plaintiffs without warning. Plaintiffs  
14 sue Officer Sticca in his official and individual capacity.

15 21. Defendant Lane White is an officer with the PPD who was assigned to  
16 the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,  
17 Officer White indiscriminately shot and injured Plaintiffs without warning. Plaintiffs  
18 sue Officer White in his official and individual capacity.

19 22. Defendant Jeffrey Howell is an officer with the PPD who was assigned  
20 to the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,  
21 Officer Howell indiscriminately shot and injured Plaintiffs without warning. Plaintiffs  
22 sue Officer Howell in his official and individual capacity.

23 23. Defendant George Herr is an officer with the PPD who was assigned  
24 to the PPD's Tactical Response Unit as one of the "Grenadiers." As set forth herein,  
25 Officer Herr indiscriminately shot and injured Plaintiffs without warning. Plaintiffs sue  
26 Officer Herr in his official and individual capacity.

27 24. Plaintiffs are ignorant of the true names and/or capacities of  
28 Defendants sued herein as Does 1 through 20, inclusive, and therefore sue said

1 Defendants by such fictitious names. Plaintiffs will amend this complaint to allege their  
2 true names and capacities when ascertained. Plaintiffs are informed and believe, and  
3 upon such information and belief allege, that each of the Doe Defendants is legally  
4 responsible and liable for the incident, injuries, and damages hereinafter set forth, and  
5 that each of said Defendants proximately caused said incidents, injuries, and damages  
6 by reason of their failure to supervise, train, manage, or control staff, violation of  
7 constitutional rights, violation of public policy, or based on agency, employment,  
8 ownership, entrustment, custody, care, or control, or upon any other act or omission.  
9 Plaintiffs will seek leave to amend this complaint to insert further charging allegations  
10 when such facts are ascertained.

11         25.         Each of the above individual Defendants participated in and has  
12 responsibility for the unlawful conduct and resulting injuries to Plaintiffs and putative  
13 damages class members described herein, by, among other things, personally  
14 participating in the unlawful conduct, or acting jointly or conspiring with others who  
15 did so; authorizing, acquiescing in, or setting in motion policies, plans, or actions that  
16 led to the unlawful conduct; failing to take action to prevent the unlawful conduct;  
17 failing and refusing, with deliberate indifference to Plaintiffs' rights, to initiate and  
18 maintain adequate training and supervision; and ratifying the unlawful conduct that  
19 occurred by agents and officers under their direction and control, including failing to  
20 take remedial or disciplinary action.

21         26.         In doing the acts alleged herein, Defendants, and each of them, acted  
22 within the course and scope of their employment for the City of Phoenix.

23         27.         In doing the acts and/or omissions alleged herein, Defendants, and  
24 each of them, acted under color of authority and/or under color of law. In doing the acts  
25 and/or omissions alleged herein, Defendants, and each of them, acted as the agent,  
26 servant, employee, and/or in concert with each of said other Defendants herein.  
27  
28

## **STATEMENT OF FACTS**

28. The election of Donald J. Trump in November 2016, and his harmful policies and attitudes related to migrants, police misconduct, discrimination, women, education, health care, foreign affairs, and gun control, to name a few, have invigorated millions of Americans to join anti-Trump protests and demonstrations in record numbers across the nation. Overwhelming numbers of protestors, many newly motivated by the cruel and unjustified policies of the present administration, are participating in demonstrations for the first time to express their criticism. Arizonans found themselves the target of Trump's racist and anti-immigrant politics when, in the summer of 2017, he publicized his intent to pardon former Sheriff Joe Arpaio, who had been convicted of criminal contempt of court after disobeying a federal judge's order to end the practice of racial profiling and detaining persons suspected of being in the United States unlawfully solely based on their perceived Latino race. When Trump announced plans to speak in Phoenix just before his anticipated pardon of Arpaio (who is widely known for visiting indignities on prisoners and terrorizing immigrant communities in Maricopa County), Arizonans planned to take to the streets.

### ***Plans to Demonstrate in Quintessential Public Fora***

29. On August 16, 2017, Trump's campaign announced that he would deliver a speech at a campaign-style rally at the Phoenix Convention Center less than a week later. This announcement came on the heels of a violent clash between two groups of demonstrators in Charlottesville, Virginia, one group consisting of white supremacists and one group consisting of pro-social-justice advocates. One woman was killed by the intentional act of a white supremacist, and several were injured in the clashes in Charlottesville. Trump reacted to the events in Charlottesville by proclaiming that there were "good people" on both sides.

30. With the events of Charlottesville in mind, Plaintiffs Puente and Poder in Action, and other activists and groups, mobilized to plan a safe protest before and after Trump's rally scheduled for early evening on August 22, 2017 ("Trump Protest").

1 PPD liaisons communicated with organizers about the details of the planned  
2 demonstrations. Puente and Poder also met, and otherwise communicated with PPD  
3 liaisons to discuss logistics for the demonstration to ensure that all who gathered would  
4 be able to safely exercise their free-speech and assembly rights, and make their  
5 opposition to Trump's actions known to his supporters. Puente, Poder, and other  
6 organizations exchanged phone calls, emails, and text messages with the PPD and other  
7 City representatives leading up to the demonstration. The ACLU of Arizona also  
8 reached out to representatives of the City of Phoenix and PPD to request that the City  
9 and the PPD put in place measures to prevent the devastation that befell protestors in  
10 Charlottesville and ensure that all could exercise their speech rights safely. City and  
11 PPD representatives assured the ACLU of Arizona that the PPD was prepared and was  
12 much more experienced in managing crowds and large demonstrations than the police  
13 in Charlottesville.

14 31. During the planning communications, PPD made it clear to Puente,  
15 Poder, and other organizers that anti-Trump protesters would be relegated to  
16 assembling in an outdoor but confined space in the downtown area which it  
17 euphemistically called the "free-speech zone." PPD defined this area as follows: its  
18 southern boundary was Monroe Street, between Second and Third Streets, in front of  
19 the Herberger Theater, directly north of the Convention Center's northern entrance. The  
20 northern boundary of the "free-speech zone" was marked by a barrier which stretched,  
21 in part, across Third Street between Monroe and Van Buren Streets. PPD restricted anti-  
22 Trump protesters to assembling, chanting, and holding signs in this zone, north of  
23 Monroe Street and south of the barrier. The streets and sidewalks of downtown Phoenix  
24 slated for use by anti-Trump protesters were traditional public fora regularly used by  
25 demonstrators for expressive events and activities.

26 32. Puente and Poder shared with PPD that, based just on responses on  
27 social media, their groups alone expected upwards of 500 protestors including children  
28 and persons with disabilities, and that total attendance would far exceed that. Puente

1 and Poder organized a staging and fallback area for demonstrators at the Civic Space  
2 Park, two blocks north and three blocks west of the main protest area. They  
3 communicated to PPD that volunteers would begin gathering at the Civic Space Park  
4 by 1 P.M. or earlier and that demonstrators would arrive at the Civic Space Park by 3  
5 P.M. or earlier. Puente and Poder expected that the demonstration would continue  
6 through the time that Trump's rally ended and he and his supporters exited the  
7 Convention Center, so that protesters could reach the intended audience and express  
8 their views to Trump and his supporters. PPD was aware of proposed protest plans.

9  
10 ***PPD Used Excessive Force to Unlawfully Disperse Anti-Trump Protestors in  
Violation of the Fourth Amendment***

11 33. PPD officers were present from the beginning of the demonstration.  
12 As early as 2:30 P.M., despite the absence of any indication of violence, PPD officers  
13 obscured their identities by face shields and vests and other equipment covering their  
14 badges. Many officers had weapons drawn despite the peaceful and lawful assembly as  
15 anti-Trump protesters convened throughout the afternoon, and later waited for the  
16 speech to end and the many Trump supporters to leave the Convention Center and travel  
17 close enough to hear the protesters' chants and see their many anti-Trump signs.

18 34. PPD officers, including "grenadiers," were equipped with several  
19 types of chemical and projectile weapons including:

- 20 a. Pepper bullets;
- 21 b. 40 mm foam impact rounds, which travel at speeds pf 89 miles per  
22 hour and contained "CS" (irritant) powder and cayenne pepper to deliver both  
23 blunt trauma and the effects of an irritant powder;
- 24 c. Flash-bang grenades, which are devices that produce loud explosive  
25 noises and bright flashes of light;
- 26 d. Smoke grenades, which are explosive devices that release smoke;
- 27 e. "Stingers," which are explosive devices that release smoke, rubber,  
28 pellets, and a chemical irritant within a radius of approximately 50 feet; and

1 f. Canisters containing “CS,” or tear gas.

2 The manufacturers’ specifications describe these munitions as designed to incapacitate  
3 subjects, and to inflict pain to compel compliance. Despite PPD’s presence, including  
4 many officers in riot gear with weapons powerful enough to incapacitate and cause  
5 serious and lethal injuries, anti-Trump protestors remained peaceful throughout the day.

6 35. On information and belief, Trump’s presence meant that PPD  
7 coordinated regarding plans for crowd control with officers from the Secret Service and  
8 other federal agencies.

9 36. Officers from many other law enforcement agencies in Arizona were  
10 also present to provide support and assistance during the demonstrations. Among those  
11 forces present were representatives of federal agencies and mounted police from the  
12 Tempe and Scottsdale police departments, with experience and expertise in dispersing  
13 large crowds. The PPD had the primary crowd-control role throughout the  
14 demonstration, and made the decision to use the incapacitating weaponry  
15 indiscriminately against hundreds of peaceably assembled anti-Trump protestors  
16 without warning.

17 37. President Trump arrived at the Convention Center at approximately  
18 6:32 P.M.

19 38. Without provocation, at approximately 7:00 P.M., PPD officers in riot  
20 gear formed a line (“Police Line”) on Monroe Street in the “safety zone” in front of  
21 anti-Trump protestors who assembled during the afternoon directly across from the  
22 north entrance of the Convention Center. Anti-Trump protestors were awaiting the end  
23 of Trump’s rally inside the Convention Center, and his and his supporters’ exit from  
24 the building.

25 39. Despite there being no provocation or dangerous acts by anti-Trump  
26 protestors, at approximately 7:03 P.M. and 7:13 P.M., the PPD increased its already  
27  
28

1 forceful presence in that area as several additional police units arrived to join the  
2 growing Police Line on Monroe Street.



40. Without any precipitating conduct by the anti-Trump protestors, at 7:19 P.M., the Police Line of officers (all wearing helmets and masks obscuring their faces and badges), took several steps forward in a northern direction, in unison, towards the anti-Trump protestors. Ex. 1.

41. On information and belief, PPD removed its officers stationed in the designated "free-speech zone" nearby the anti-Trump protestors at approximately 8:20 P.M., without explanation or notice to protest organizers, including the Puente and Poder contacts who had previously been in communication with some of those officers.

42. As the Trump rally inside the Convention Center was ending, several dozens of officers filed out of the Convention Center in riot gear heading west towards Second Street to join the Police Line. By 8:29 P.M., the number of PPD officers in the Police Line forcefully confronting anti-Trump protestors had grown significantly. The only attempted excuse for this increased show of force was that a few individuals had thrown plastic water bottles; none of the officers were injured.



1           43.       PPD did not attempt to identify or separate from the gatherings of anti-  
2 Trump protesters any individuals they considered to be problematic or possibly engaged  
3 in improper conduct. As later events revealed, PPD instead opted for a “let’s fire on all”  
4 tactic that endangered the rights and well-being of hundreds of peaceable persons,  
5 including children and the elderly; PPD personnel were apparently trained in the tactic  
6 of firing on all in a crowd as the best method for shaking out one or two persons of  
7 concern, if even present at all.

8           44.       At approximately 8:30 P.M., Trump and other federal officials began  
9 exiting the Convention Center. After hours of assembling and gathering in Phoenix’s  
10 sweltering heat all day, anti-Trump protesters were about to have their opportunity to  
11 chant and display their signs to express their views to Trump and his supporters as they  
12 exited the Convention Center.

13          45.       At 8:32 P.M. hundreds of anti-Trump protesters were assembled  
14 behind the pedestrian fencing along Monroe Street. As a result, a twenty-foot portion  
15 of the fence was shaken. PPD gave no warnings that either force would be used, or that  
16 the crowd would be dispersed if the fence continued to shake. Without first ordering  
17 officers to warn protestors about touching the fence, and with no warning or clear  
18 instruction about how to avoid the attack and where to disperse, Defendant Lieutenant  
19 Benjamin Moore and Defendant Sergeant Douglas McBride ordered officers to fire  
20 pepper balls.

21          46.       At no time between 2:00 P.M. to 8:32 P.M. did PPD announce to the  
22 assembled protesters that any force would be used against them or that an attack by  
23 PPD personnel was imminent. Nonetheless, Lt. Moore ordered officers to shoot gas,  
24 projectiles, and munitions, but never ordered them to warn protestors prior to opening  
25 fire. As later acknowledged, PPD had insufficient megaphones, sound magnifying  
26 devices, or plans to effectively communicate to a large crowd. No declaration of an  
27 unlawful assembly or order to disperse was made between 2:00 P.M. and 8:32 P.M.  
28 when Defendants Lt. Moore and Sgt. McBride gave the order to use force.

1           47.       Defendant Officer Robert Scott was the first to deploy pepper bullets.  
2 Scott shot the first pepper bullets, impacting the ground in front of the anti-Trump  
3 protesters closest to the fence. Other PPD officers immediately joined him, and together  
4 officers shot at least another ten pepper bullets in rapid succession towards anti-Trump  
5 protesters in the same general area. Ex. 2 (screen shot of first pepper bullet rounds).  
6 The crowd in the immediate vicinity dispersed. Ex. 3 (screen shot of “free-speech zone”  
7 nearly clear of anti-Trump protestors). Despite this, Officer Scott continued to fire  
8 pepper bullets at protestors who were dispersing. Scott was apparently trained that he  
9 could ignore the PPD policy prohibiting firing pepper bullets above a person’s waist  
10 when he reported that he “deployed multiple rounds of pepper ball,” while “aiming at  
11 the torso of the subject.”

12           48.       At 8:33 P.M., one minute after officers fired the initial rounds of  
13 pepper bullets at protestors, two plastic water bottles were thrown from the crowd. One  
14 landed several feet in front of the Police Line, and another landed over their heads. No  
15 PPD officers were injured by the plastic bottles. No protestor was engaged in any  
16 violent or threatening conduct. At this time, anti-Trump protesters were chanting,  
17 “Hands up! Don’t shoot!” and other anti-Trump and social justice messages.

18           49.       At 8:35 P.M., without any provocation, warning, or declaration of an  
19 unlawful assembly, an officer along Monroe Street threw the first visible tear gas  
20 canister towards the anti-Trump protesters standing along the pedestrian fencing. Ex.  
21 4. That canister erupted in yellow smoke, harming protesters who had been peacefully  
22 assembled. Again without warning, a second officer threw another gas canister toward  
23 protestors. Ex. 4. Utter chaos ensued. Protestors, including children and elderly people,  
24 ran from the gas, screaming, coughing, and crying. The gas and fumes were unexpected  
25 and persons with mobility issues required assistance to retreat and get to safety. Anti-  
26 Trump protesters who remained in the area acted to kick and clear the gas canisters  
27 away from the protestors to protect them from the chemicals. PPD fired three more gas  
28 canisters, two of which were kicked or thrown in directions away from the anti-Trump

1 protesters. None of the gas canisters thrown or kicked away by the anti-Trump  
2 protesters originated from Plaintiffs.

3 50. PPD officers launched three more gas canisters toward the anti-Trump  
4 protesters and violently attacked them with other chemical weapons and projectiles.  
5 Protesters continued running away, screaming, confused, terrified, dodging rubber  
6 bullets, gas canisters, and unidentifiable projectiles launched at their torsos and heads  
7 in violation of PPD policy. Anti-Trump protesters fled while holding their shirts or  
8 cloths over their noses and mouths to block the gas and pepper spray that burned their  
9 eyes, throats, and lungs. Still at this point in time, the PPD had not declared an unlawful  
10 assembly and had given no dispersal order.

11 51. PPD then escalated its use of force on protesters by deploying flash-  
12 bang grenades on the ground and in the air, which emitted loud booms and clouds of  
13 green and grey gas. PPD had not yet declared an unlawful assembly, given any dispersal  
14 instructions to protesters, or directed protesters to an area where they could continue  
15 their peaceful assembly. At no point before 8:32 P.M., when force was first used, did  
16 any person from PPD give Puente, Poder, or any anti-Trump protesters warning that  
17 force would be used, or information about where to go for safety or to continue their  
18 assembly.

19 52. Anti-Trump protesters reacted to the indiscriminate police violence  
20 and resulting physical injuries and great fear by clearing the area as of 8:42 P.M.  
21 Nonetheless, PPD officers continued shooting pepper bullets at close range toward one  
22 remaining anti-Trump protester, who posed no threat and was filming the police  
23 response, hitting his upper torso in violation of department policy. Exs. 5, 6 (screen shot  
24 of anti-Trump protester being shot while recording officers).

25 53. At 8:44 P.M., PPD still had not declared an unlawful assembly, or  
26 issued an order to disperse or warnings that officers would continue to use violent force.  
27 Yet, Lt. Moore next ordered PPD officers to use force against anti-Trump protesters by  
28 “mov[ing] into the crowd and clear[ing] the area all the way to Van Buren,” without

1 warning or direction to anti-Trump protesters that the area should be cleared before  
2 force was used. As ordered, PPD officers with riot helmets on, shields drawn, and rifles  
3 aimed to shoot chemical munitions and projectiles advanced on the anti-Trump  
4 protesters and breached the pedestrian gate on Monroe Street, at the location where  
5 Puente and Poder had positioned much of the water for protesters at PPD's direction.  
6 Officers in the Police Line continued to fire tear gas and pepper balls into the crowd as  
7 they marched in unison towards Plaintiffs, effectively corralling them away from the  
8 designated demonstration area and water station.

9         54.         The riot-gear-clad officers moved into the areas of assembly  
10 designated for anti-Trump protesters while firing projectiles indiscriminately and  
11 without prior, or even simultaneous, warnings. Anti-Trump protesters had no  
12 opportunity to collect their personal property and signs containing their political  
13 messages. Puente was forced to leave behind equipment it uses for demonstrations and  
14 other events, including a large inflatable screen and amplifiers. PPD also shoved the  
15 anti-Trump protesters with their shields even as the protesters were moving out of the  
16 area. As PPD advanced north, PPD trapped Plaintiffs within the barricades of the zone,  
17 forcing them to climb, jump, or otherwise find a way over the barricades to escape  
18 PPD's attack. PPD's actions took no considerations for the elderly or persons with  
19 limited mobility, some of whom were in wheelchairs and had to unexpectedly, and  
20 without warnings, flee PPD's advancing violence.

21         55.         Through all of this, PPD gave no instructions to protestors about where  
22 to disperse. All day, organizers of the demonstration had cooperated with PPD to ensure  
23 that the peaceful and lawful assembly would continue. Indeed, at the request of PPD,  
24 earlier that day, organizers were asked to move collections of water bottles to a different  
25 area, and organizers complied.

26         56.         PPD gave no instructions to disperse in the minutes before the first  
27 projectiles were shot by police at 8:32 P.M., through the next 30 minutes. As of 9:00  
28 P.M., no unlawful assembly had been declared and no dispersal orders had been given

1 despite the violent actions of PPD officers using their weapons to disperse the anti-  
2 Trump protesters.

3         57.         Between 8:32 and 9:00 P.M., the Police Line continued to move north  
4 on both Second and Third Streets, forcefully driving anti-Trump protesters out from the  
5 area by indiscriminately shooting them with gas canisters and pepper bullets at close  
6 range in the head, face, upper back, stomach, and groin areas. PPD officers shot anti-  
7 Trump protesters who were taking photos or video. Ignoring department policy, as they  
8 advanced, PPD sprayed Plaintiffs in the face with pepper spray from just inches away  
9 even as they were following orders and retreating. Exs. 7, 8, 9. PPD never warned these  
10 protestors that force would be used based on any conduct they were engaging in. PPD  
11 sprayed at least one member of the media who was documenting her retreat from the  
12 violence on video, in the face and camera lens – even as she was moving away from  
13 the Police Line. Exs. 10, 11. PPD never warned her that an officer would directly spray  
14 her face if she kept recording.

15         58.         The first instructions to disperse were finally heard from a helicopter  
16 at approximately 9:00 P.M. PPD’s own “After-Action Report” confirms that it was not  
17 until around 9:00 P.M. that an air unit was used “to make announcement to disperse.”  
18 The dispersal orders from the helicopter were in English only, ignoring that some of the  
19 participants may not have understood English. For nearly 30 minutes prior, PPD had  
20 rained pepper bullets, gas canisters, and pepper spray without warnings on anti-Trump  
21 protesters. These after-the-fact helicopter announcements never warned anti-Trump  
22 protesters that they would be shot with projectiles, gas, or other munitions.

23         59.         After the dispersal order was given from the helicopter, PPD continued  
24 indiscriminately using chemical and impact munitions, pepper spray, and their shields  
25 as weapons against anti-Trump protesters in the assembly, including children, persons  
26 with disabilities and mobility issues, and the media. Dozens of individuals were shot at  
27 close range as officers unloaded their weapons at anti-Trump protesters. Fleeing  
28 protesters were trapped with PPD advancing violently from the south and barricades

1 erected by PPD blocking their escape to the north. Individuals were forced to climb or  
2 jump over the barricades, with some people falling over them in flight and some with  
3 mobility issues requiring assistance from others to breach the barricades. While  
4 breaking up the lawful demonstration, PPD officers shouted obscenities at the peaceful  
5 protesters. Contemporaneous with firing chemical and impact munitions at anti-Trump  
6 protesters, PPD officers yelled: “stun bag that guy, oh yeah, yep that’ll teach him,” and  
7 “that’s right motherfuckers, you just smoked yourself, dumbasses.”

8         60.         At 9:14 P.M., several “grenadiers” continued to “target anyone who  
9 aggressively approaches the police line with pepper balls.” As the officers moved north,  
10 they targeted anti-Trump protesters in their path with projectiles and other force as the  
11 officers continued to fire chemical and impact munitions, gas, and pepper spray at  
12 persons with no evidence that any of the persons who were shot had engaged in any  
13 improper conduct.

14         61.         Defendant officers were aware that they were targeting protestors  
15 despite their peaceful status. PPD acknowledged in an after-action report dated August  
16 28, 2017, “*It is important to note that the vast majority of participants on August 22*  
17 *in both the campaign rally and the protests outside were peaceful, prepared and civil.*”  
18 (Emphasis added.)

19         62.         Despite knowing that anti-Trump protesters were “peaceful, prepared  
20 and civil,” PPD officers indiscriminately used unlawful and excessive force as follows:

21                 a. ***Defendant Officer Scott*** was a grenadier and the first to fire chemical  
22 weapons at the anti-Trump protesters. According to Scott, he shot at anti-Trump  
23 protesters to “make the immediate area unpleasant to be in because of irritant in the  
24 pepper balls.” Without warning, Scott “began attempting to directly impact[] the legs  
25 of the subjects that remained” in the area. Still giving no warning, Scott also shot the  
26 torso of an “older male” who was touching the pedestrian fence with “direct impact”  
27 weapons. With no unlawful assembly declared, Scott “deploy[ed] pepper ball to clear  
28 out the remaining people at the pedestrian fence.” On orders from Moore and without

1 any warnings, Scott erratically fired “multiple rounds of pepper ball using the area  
2 saturation method.” Officer Scott continued to fire projectiles and chemical weapons  
3 indiscriminately at anti-Trump protesters without warning throughout the night.

4           b. ***Defendant Officer Turiano*** was among the grenadiers working at the  
5 Trump rally and protest. He saw a man in blue shorts running toward the Police Line,  
6 and despite his knowledge that an OC canister (pepper spray) reaches temperatures of  
7 800 degrees Fahrenheit, Turiano nonetheless fired an “OC impact round at the male’s  
8 lower torso” hitting his groin from about 20 yards away. This protestor collapsed and  
9 was dragged off for medical assistance. Officer Turiano alone fired at least 40 rounds  
10 of impact weapons, tear gas, and smoke bombs.

11           c. ***Defendant Officer Neville*** was a grenadier on detail to the Trump rally  
12 and protest. He fired chemical munitions and weapons at the anti-Trump protesters  
13 without warning. On information and belief, Officer Neville continued to fire  
14 projectiles and chemical weapons indiscriminately at anti-Trump protesters without  
15 warning throughout the night.

16           d. ***Defendant Officer Sticca*** was also assigned as one of the “grenadiers.”  
17 Officer Sticca heard protesters chanting “Hands up! Don’t Shoot!” and other anti-  
18 Arpaio, and law enforcement related messages just before he was ordered to and did  
19 deploy “smoke canisters,” “CS Canisters,” pepper bullets, and projectiles toward the  
20 crowd without first warning them. Officer Sticca continued to fire projectiles and  
21 chemical weapons indiscriminately at anti-Trump protesters without warning  
22 throughout the night.

23           e. ***Defendant Officer White*** was another one of PPD’s “grenadiers” who  
24 arbitrarily used excessive force against anti-Trump protesters. After Lt. Moore gave the  
25 order to “smoke,” Lane began throwing smoke munitions in the direction of peaceful  
26 participants along the north curb of Monroe Street without warning. Additionally, when  
27 Lt. Moore ordered officers to deploy CS gas, he deployed CS grenades and CS  
28 munitions, also without warnings.

1           f. **Defendant Officer Howell**, another “grenadier,” began to deploy  
2 pepper balls to the ground directly in front of protestors who had been touching the  
3 pedestrian gate along Monroe Street after Lt. Moore gave the order. Additionally,  
4 against policy, and without warnings, Officer Howell deployed multiple pepper balls  
5 “at the torso areas of the [protestors’] bodies,” and carried out “mid-torso direct  
6 impacts.” Officer Howell continued to fire projectiles and chemical weapons  
7 indiscriminately at anti-Trump protesters without warning throughout the night.

8           g. **Defendant Officer Herr** is a “grenadier” who was teamed with  
9 Defendant Sgt. McBride at the time officers were ordered to begin using force on anti-  
10 Trump protesters. Without warning or declaration of an unlawful assembly, Herr and  
11 Sgt. McBride fired pepper ball munitions at the ground to disperse anti-Trump  
12 protesters near the area where a pedestrian fence was shaking. Officer Herr next shot  
13 2-3 pepper ball munitions without any warnings at an individual protester who “was  
14 directly impacted by the pepper ball munitions and ran towards the back of the crowd.”  
15 Officer Herr also indiscriminately shot pepper balls into the crowd, “target[ing]  
16 individuals who were physically grabbing the fencing” for “direct impact of the pepper  
17 ball.” Herr also loaded a single round of the “super sock” munition, or a bean bag round,  
18 into his shotgun and against policy he shot a “light skinned male, with no shirt” in the  
19 “upper torso area causing him to fall to the ground.”

20           h. **Defendant Sgt. McBride** was in charge of the actions of all of these  
21 officers. Sergeant Mc Bride was on Monroe Street with his team of grenadiers when Lt.  
22 Moore ordered PPD officers to use “smoke and gas grenades” on anti-Trump protesters  
23 without warning, and took no action to stop this conduct. After Lt. Moore improperly  
24 ordered the lawful assembly to be cleared, Sgt. McBride ordered the team of grenadiers  
25 to “support the skirmish line,” move into the crowd, and on his orders grenadiers fired  
26 chemical and other projectiles indiscriminately without warning to “clear[] the area all  
27 the way to Van Buren.” Sgt. McBride did nothing to intervene in the use of excessive  
28 force and violations of PPD policy.



1           63.           The Phoenix Police Department had approximately 882 police officers  
2 on hand at the Trump rally and protest, yet made no attempt to isolate any individuals  
3 or groups that may have been engaging in improper or unlawful conduct. Instead, PPD  
4 used unwarranted and unlawful indiscriminate force against all anti-Trump protesters.

5           64.           PPD officers advanced towards hundreds of anti-Trump protesters  
6 assembled north of the Convention Center, regardless of whether they had engaged in  
7 any unlawful activity – shooting them with so-called “less lethal” munitions designed  
8 to incapacitate, and which did knock Plaintiffs to the ground. PPD officers did not use  
9 such force to effectuate arrest, overcome resistance to arrest, or in self-defense. The  
10 anti-Trump protesters did not resist arrest, attempt to escape arrest, use force upon any  
11 person, or threaten to use force upon any person. Yet, without regard to whether anti-  
12 Trump protesters were engaged in unlawful activity, PPD officers fired their dangerous  
13 weapons indiscriminately, aiming at and striking the upper torsos and heads of  
14 Plaintiffs—in violation of manufacturer’s warnings and PPD policy.

15           65.           As a result, Plaintiffs and putative members of the injunctive class are  
16 understandably hesitant to engage in further speech, assembly, demonstrations, and  
17 gatherings in Phoenix, particularly when expressing criticism of Trump and his  
18 supporters. As it was on August 22, 2017, the PPD will be the primary law enforcement  
19 agency at future demonstrations in Phoenix.

20           66.           PPD injured Plaintiffs by this violence as follows:

21                   a. ***Plaintiff Puente*** planned, organized, and participated in the August 22,  
22 2017 Phoenix Trump protest to express its and its members’ and supporters’ opposition  
23 to President Trump’s treatment of migrants, his immigration policies, and his  
24 anticipated pardoning of former Maricopa County Sheriff Joe Arpaio. In planning the  
25 protest, Puente had communicated with the PPD to ensure the safety of its members,  
26 other protesters, and the community. Despite Puente’s efforts, after Trump’s rally  
27 ended, PPD did not communicate with Puente that it intended to end the Trump Protest  
28 or that force would be used against the anti-Trump protesters. PPD deprived Puente

1 members of their First Amendment rights to criticize Trump by violently attacking  
2 them. PPD has previously used excessive force during First Amendment protected  
3 activities planned and organized by Puente, against Puente members and supporters.

4           b. ***Plaintiff Poder*** also assisted, organized, planned, and participated in  
5 the August 22, 2017 Trump Protest to express its opposition to President Trump's  
6 treatment of migrants and his immigration policies. During the protest, Poder  
7 representatives and supporters were peaceful. Likewise, after Trump's rally ended, PPD  
8 did not communicate to Poder that it was dispersing the assembly. Despite having  
9 Poder's contact information, PPD did not warn Poder that its members and supporters  
10 would be subjected to the indiscriminate use of force by PPD officers. PPD viciously  
11 attacked Poder members just as they intended to express their anti-Trump views to  
12 Trump and his supporters. PPD has previously used excessive force during First  
13 Amendment protected activities planned and organized by Poder, against its supporters.

14           c. ***Plaintiff Janet Travis*** was walking home, observing, and  
15 photographing the protest and police response, when PPD gassed her, caused her to  
16 inhale pepper spray, and shot her in the upper part of her back just inches from her head,  
17 with unidentified projectiles at close range. Ms. Travis had no warning she would be  
18 gassed or shot and was not engaged in any conduct to justify the use of force against  
19 her. A PPD projectile struck Ms. Travis's back with such force that it knocked her to  
20 the ground. Exs. 12-13. As concerned protesters aided Ms. Travis and attempted to help  
21 her to her feet, PPD struck her again with another unidentified projectile shot from close  
22 range. The second projectile struck her upper torso in the lower part of her back, and  
23 upper glute. Exs. 12-13. Ms. Travis suffered difficulties breathing, and such significant  
24 trauma and bruising along her back, buttocks, and leg that she was forced to seek  
25 medical attention for her injuries. Before opening fire on Ms. Travis and other anti-  
26 Trump protesters, PPD gave no warnings that officers were planning to use force. Since  
27 being shot, Ms. Travis is fearful and distrusting of the PPD. For Ms. Travis, it has been  
28 a source of angst to see on the internet, in newspapers, and on television reports across

1 the world photos and videos of her being shot because it feels like an extreme invasion  
2 of privacy.

3 d. ***Plaintiff Ira Yedlin*** was peacefully protesting outside the Phoenix  
4 Convention Center when PPD officers gassed him, caused him to inhale pepper spray,  
5 and shot him with unidentified projectiles five times in the legs, once in the back, and  
6 once in the face. Before opening fire on Mr. Yedlin and other anti-Trump protesters,  
7 PPD gave no dispersal instructions or warnings that officers were planning to use force.  
8 Mr. Yedlin was not engaged in any conduct that justified the use of force against him.  
9 After being shot, Mr. Yedlin quickly ran from the protest area. As Mr. Yedlin and his  
10 wife drove home, they became so overcome with the fumes from the chemical agents  
11 that remained on his clothes that they had to hang his clothes out of the window of their  
12 car as they drove away. Mr. Yedlin was forced to go to an emergency room for  
13 treatment of the injuries caused by the PPD's indiscriminate use of force. Mr. Yedlin  
14 remains distrustful that the PPD will violently react in future protests.

15 e. ***Plaintiff Cynthia Guillen*** was peacefully chanting and filming the  
16 protest and police response, when PPD gassed her, and shot her in the upper torso on  
17 her breast and near her stomach and hip, with an unidentified projectile. Ms. Guillen  
18 had no warning that she would be gassed or shot, and was not engaged in any conduct  
19 justifying the use of force. PPD's projectile struck with such force it knocked the wind  
20 out of Ms. Guillen, requiring other anti-Trump protesters to help her limp away from  
21 the assembly area in severe pain as she inhaled gas and coughed. PPD's use of force  
22 caused Ms. Guillen substantial injuries, including pancreatitis triggered by the high-  
23 impact force with which PPD hit her. Since the August 22, 2017 protest, Ms. Guillen  
24 has experienced continuing medical problems, problems working, trouble sleeping, and  
25 anxiety.

26 f. ***Plaintiff Jacinta Gonzalez Goodman*** was peacefully protesting and  
27 coordinating public safety for anti-Trump protesters when PPD gassed her and other  
28 protesters, prematurely ending the planned event. Despite working as a liaison between

1 PPD and protest organizers, and being in direct contact with PPD Officer Brockman in  
2 person and by text message just before the attack, Ms. Gonzalez Goodman received no  
3 dispersal instructions or warnings that officers were planning to use force. Ms.  
4 Gonzalez Goodman was not engaged in any conduct that justified the use of force  
5 against her. PPD's use of force caused Ms. Gonzalez Goodman to lose the opportunity  
6 to exercise her First Amendment rights as she planned. Despite participating in dozens  
7 of protests, Ms. Gonzalez Goodman had never seen officers act so aggressively towards  
8 peaceful protesters without cause or warning. Ms. Gonzalez Goodman remains  
9 concerned and fearful that the PPD will react violently in response to future protests.

10 67. PPD officers deliberately fired at these Plaintiffs and at the upper  
11 torsos of anti-Trump protesters, based on their training and with the approval of PPD  
12 command staff. But even if the officers had done nothing more than shoot  
13 indiscriminately at the lower torso area of the adults, that put them in direct range of  
14 the upper torsos and heads of children and persons in wheelchairs who were  
15 participating. It was sheer luck that (to Plaintiffs' knowledge) no child was struck in the  
16 head with a projectile given the indiscriminate deployment of over 590 munitions at the  
17 peaceful, fleeing assembly, especially with the use of weapons intended to incapacitate  
18 and having the potential to cause death or great bodily injury when used as the PPD did  
19 on this occasion—at close range and to the upper torso, head, and face areas of  
20 protestors.

21 68. There was no probable cause or reasonable suspicion to believe that  
22 anti-Trump protesters posed an immediate or credible threat of injury to police or any  
23 other person.

24 69. The PPD never attempted to disperse the demonstrators with less  
25 violent measures, including making announcements directing the crowd to disperse, or  
26 calling in the mounted police forces from the Tempe and Scottsdale police departments  
27 who were trained in crowd control measures and deployed to the demonstration for the  
28 purpose of assisting the PPD in this very task. Nor did PPD attempt to insulate the

1 overwhelming majority of the protestors, who they knew had been peaceable  
2 throughout the demonstration, from unnecessary attack, injuries, and loss of basic  
3 rights, by separating from the crowd the handful of persons PPD claims had acted  
4 wrongly.

5 70. Many hundreds (and perhaps thousands) of peaceful protestors  
6 including men, women, and children who had been engaged in no criminal activity—  
7 and who were attempting to disperse after PPD’s attack began—were physically injured  
8 as they were shot with munitions, gas, pepper spray, and/or assaulted by the advancing  
9 Police Line.

10 ***Using Violence, PPD Violated the First Amendment Rights of Anti-Trump***  
11 ***Protesters to Assemble and Speak Their Views Critical of Trump***

12 71. Plaintiffs reallege and incorporate by reference as if fully set forth  
13 herein the allegations set forth previously and subsequently in this complaint.

14 72. Trump’s visit received significant publicity because he had announced  
15 that he would deliver remarks that might include the pardon of former Sheriff Arpaio.  
16 On August 22, 2017, when temperatures hit 108 degrees, record numbers of anti-Trump  
17 protesters began arriving in downtown Phoenix. Some gathered downtown, while  
18 others participated in marches and demonstrations nearby in advance of the main  
19 demonstration near the Convention Center set to begin around 4 P.M.

20 73. The PPD segregated those gathering in downtown into two groups:  
21 those who were there to support Trump and anti-Trump protesters. PPD ordered anti-  
22 Trump protesters to limit their activities to the assigned “free speech zone.”

23 74. Near the only area PPD made available for the anti-Trump protesters  
24 to assemble, the so-called “free-speech zone,” PPD set up fence barricades lining the  
25 north and south sides of Monroe Street between 2nd and 3rd Streets for the purpose of  
26 keeping Trump supporters and anti-Trump protesters separated. The street between the  
27 two groups created a “safe zone” for PPD in between the two factions. There was no  
28 barricade, however, on the south side of Monroe Street, crossing 2nd Street. PPD’s

1 leaving this gap in the barricades left the Trump supporters who were exiting the Trump  
2 rally around 8:30 P.M. free to harass anti-Trump protesters.

3 75. Trump supporters attending Trump's rally entered the Convention  
4 Center through the south entrance. About 15,000 Trump supporters ended up inside the  
5 Convention Center for the Trump rally, while another 4,000 to 5,000 gathered at the  
6 south end of the Convention Center.

7 76. Over 6,000 peaceful anti-Trump protesters assembled in the  
8 designated area north of the Convention Center, along the northern sidewalks of  
9 Monroe Street, and along Second and Third Streets.

10 77. Given Trump's policies and his anticipated pardon of Arpaio, anti-  
11 Trump protesters had a strong First Amendment interest in having their messages heard  
12 by Trump supporters. Protestors included young children, students, elderly people,  
13 people with disabilities, and people of various races, ethnicities, and socio-economic  
14 backgrounds. Spurred by a desire for civic engagement after Trump's election, many  
15 anti-Trump protesters were exercising their First Amendment speech and assembly  
16 rights for the first time. These protestors marched, calmly gathered, displayed signs, set  
17 up water stations, and peacefully chanted as early as 1:00 P.M. Throughout the day  
18 anti-Trump protesters chanted the following messages: "Don't Pardon!"; "No Trump  
19 no KKK, no fascist USA!"; and "This is what democracy looks like!" Trump Protestors  
20 also held posters with similar political messages. *See* Ex. 1.

21 78. As a result of PPD's unjustified and violent termination of the Trump  
22 Protest, PPD silenced anti-Trump protesters at the precise moment that they sought to  
23 have their opinions heard by the intended audience—President Trump and his  
24 supporters as they left the Convention Center.

25 ***Defendants' Violence Was Directed at Anti-Trump Protestors;***  
26 ***the Trump Supporters Were Spared***

27 79. Plaintiffs reallege and incorporate by reference as if fully set forth  
28 herein the allegations set forth previously and subsequently in this complaint.

1           80.       Despite the overwhelmingly “peaceful, prepared, and civil” nature of  
2 the group assembled and the discussions before with organizers, the police came  
3 dressed in full riot gear and armed with weaponry to confront anti-Trump protesters.  
4 Before the Trump Protest, PPD officials had “coordinated multiple group meetings”  
5 with Secret Service staff. Indeed, the PPD’s “Dignitary Protection Branch of  
6 Operations” orchestrated the movements of all of the high-level officials participating  
7 in the rally inside the Convention Center: the President, Vice President, President’s  
8 Chief of Staff, and the Secretary of Housing and Urban Development. PPD managed  
9 their movements “in partnership with federal . . . law enforcement agencies.”

10           79.       PPD limited the area where anti-Trump protesters could assemble to  
11 engage in their First Amendment activities to a small area north of the Convention  
12 Center.

13           80.       Throughout the day, PPD showed clear antagonism to the First  
14 Amendment rights of the anti-Trump protesters in this area, and preference for Trump  
15 supporters. For instance, one PPD officer advised other officers to “stay on this side.  
16 They’re more pro-police on this side than that side,” encouraging police to stay away  
17 from anti-Trump protesters and near Trump supporters. Later, another PPD officer  
18 describing Trump supporters said, “There’s just a different look about [the Trump  
19 supporters]. They’re so calm on this side,” and said without basis that the anti-Trump  
20 protesters who oppose Trump’s politics were paid to be there.

21           81.       On information and belief, PPD officers who dispersed the anti-Trump  
22 protesters are members of the Phoenix Law Enforcement Association (“PLEA”). PLEA  
23 is an organization whose president has accused organizations like Plaintiffs Puente and  
24 Poder of being “radical community groups” “whose disrespect for law enforcement is  
25 total.” A PLEA publication expressed that its law enforcement members view Puente  
26 and Poder as “aggressive radical groups [that] make noise in the interest of hurting the  
27 men and women who serve daily on the frontlines of Phoenix public safety.”  
28

1           82.       PPD's violent dispersal of anti-Trump protesters was at the exact time  
2 that Trump and his supporters would be exiting the Trump rally inside of the  
3 Convention Center. PPD command staff told its officers that it would end the Trump  
4 Protest by 9:00 P.M. One PPD officer told another, "Boss said we'll be out of here by  
5 nine." To ensure officers were "out of [t]here by nine," without justification, PPD  
6 violently dispersed anti-Trump protesters around 8:30 P.M.

7           83.       Prior to the launch of the first pepper bullet and tear gas canisters by  
8 PPD, the Trump Protest was carried out by the thousands assembled in a lawful manner.  
9 Assuming some isolated incidents of throwing plastic water bottles by a few, these did  
10 not justify firing and harming the many. No Trump protester threw any dangerous  
11 objects, nor initiated use of the weapons used by the PPD; they did kick the gas canisters  
12 thrown by police away from anti-Trump protesters, or were near the shaking fence.  
13 Rather than isolating and dealing with the small number of people whose conduct it  
14 viewed as improper, PPD resorted to violence against all. There was no lawful  
15 justification for this police action as the few persons who had been near the shaking the  
16 fence and threw plastic water bottles and kicked gas away from the protestors at around  
17 8:32 P.M. had immediately dispersed. Exs. 3-6. There was no need for the PPD to  
18 continue to escalate their demonstration of force by moving the Police Line through  
19 downtown, assaulting everyone in their path.

20           84.       As they swept through downtown, removing everyone in sight, PPD  
21 officers deliberately targeted anti-Trump protesters and persons who were chanting and  
22 holding anti-Trump posters expressing their views critical of Trump.

23           85.       The conduct complained of herein was undertaken pursuant to  
24 policies, practices, and customs of the PPD, an agency of the City of Phoenix, and the  
25 City of Phoenix. At all relevant times, Defendants City of Phoenix and Chief Jeri L.  
26 Williams ratified the unlawful conduct of PPD officers and command staff.



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***Defendant City of Phoenix Is Responsible for the Illegal Policies, Procedures, and Practices Utilized by by the PPD at the Trump Protest.***

86. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations set forth previously and subsequently in this complaint.

87. The City of Phoenix has vested final decision making authority in its police chief, Defendant Williams, in the area of law enforcement and setting and implementing the policies and practices of the PPD including but not limited to the development, implementation and/or ratification of the PPD's procedures, policies, regulations, practices, and/or customs related to its use of force in response to political protests, the proper handling of large political protests, demonstrations, and marches, and the use of weapons against civilians including gas and projectiles.

88. On August 22, 2017, PPD officers engaged in an inordinate use of force, unnecessarily injuring thousands of people at the precise moment they intended to express their views critical of Trump, without warnings. Immediately following this violent display of force, and despite acknowledging that anti-Trump protesters were “peaceful, prepared, and civil,” the procedures and violence used by PPD were ratified and found well within accepted City practices by the key policy makers for the City of Phoenix in these areas—Chief Williams and City Manager Zuercher.

89. In a press conference the same night (following the PPD assault of hundreds and possibly thousands of anti-Trump protesters without legal justification, with officers shouting obscenities at the protesters and indiscriminately using dangerous weapons to disperse without warning, in violation of the constitutional protections of speech and to be free from excessive force and PPD policy), Defendant Williams stated that she was “just so proud to be the police chief of men and women who literally showed that professionalism—under contentious scenarios and situations—they demonstrated it flawlessly.” Chief Williams also repeatedly stated that on August 22, 2017, the night of Trump’s rally, she “believe[s] the actions of our

1 officers reflected the direction I gave them,” and that “our community members went  
2 home safely.”

3 90. Then-Mayor Stanton stood by Chief Williams in this press conference  
4 as she praised the PPD officers for displaying “professionalism” as they violently  
5 silenced the views of anti-Trump protesters viewed as “radical” and harmful to law  
6 enforcement by PPD officers.

7 91. City Manager Ed Zuercher issued a memorandum on August 28,  
8 2017, to Chief Williams stating,

9 What all members of the Phoenix Police Department  
10 accomplished on August 22 was notable. In an emotional  
11 atmosphere, our police officers showed professionalism in  
12 ensuring the safety and First Amendment rights of the community.  
13 There were no serious injuries or property damage and only four  
14 related arrests. . . .

15 92. The City of Phoenix has a “strong” City Manager form of government,  
16 with a “weak” Mayoral role; Zuercher has the authority to hire and fire the Chief of  
17 Police. Zuercher’s praise of Chief Williams, and the PPD’s assaults on anti-Trump  
18 protesters under her leadership as “notable and “professional” further demonstrate  
19 after-the-fact ratification by the relevant Phoenix officials of the above-described PPD  
20 unconstitutional violent and indiscriminate acts on August 22, 2017.

21 ***As a Matter of Policy and Practice Defendant Williams Allowed Defendant City of***  
22 ***Phoenix to Maintain Inadequate Equipment to Peacefully and Lawfully Control***  
23 ***Protests and Demonstrations.***

24 93. Plaintiffs reallege and incorporate by reference as if fully set forth  
25 herein the allegations set forth previously and subsequently in this complaint.

26 94. Defendant Williams and her delegated command staff were aware  
27 prior to August 22, 2017, that the City did not possess the proper equipment, and in  
28

1 sufficient amount, to adequately deliver warnings and dispersal messages to protestors  
2 prior to and after commencing of the use of force.

3 95. The only verbal dispersal order that was given on August 22, 2017,  
4 was made about 9:00 P.M. in English only, despite PPD's knowledge that a significant  
5 number of the protestors were Spanish speakers. In a report after the protest, City  
6 Manager Ed Zuercher, and Defendant Williams admitted that in the future the City  
7 needed to "increase the number and use" of bullhorns and megaphones, and other  
8 means for crowd communication and direction.

9 96. Moreover, after the events of August 22, 2017, Defendant Williams  
10 and Defendant City of Phoenix conceded that:

11 Several large protests and demonstrations have confirmed the need to  
12 upgrade the Police Department's communication capabilities for safety  
13 and legal requirements. The current communication equipment, LRAD-  
14 100X, is a backpack system that was purchased in 2010.

15 Ex. 14 at 18.

16 97. It was not until June 13, 2018, that Defendant Williams submitted a  
17 procurement request to the Phoenix City Council for a new long range acoustic device  
18 "specifically designed to address large crowds."

19 98. Given the demonstrated lawless actions by the PPD under the direction  
20 of Defendant Williams, use of the particular LRAD device Williams has requested must  
21 be subjected to great scrutiny. It has been found in other jurisdictions that, when used  
22 at the volume levels intended by PPD, the LRAD itself becomes a weapon of excessive  
23 force and great harms, including irreversible damage to the hearing of protestors.

24 ***As a Matter of Policy, Practice, and Custom, Defendant City Through Defendant***  
25 ***Williams Failed to Adequately Train PPD Officers in Lawful Crowd Control***  
26 ***Techniques.***

27 99. Plaintiffs reallege and incorporate by reference as if fully set forth  
28 herein the allegations set forth previously and subsequently in this complaint.

1           100. Defendant Williams and her delegated command staff were aware that  
2 the unlawful use of dangerous weapons in violent and unlawful ways to break up  
3 peaceful associations and speech is a regular practice of PPD personnel, and a custom  
4 ingrained in the marrow of the PPD. It was therefore critical to take all steps necessary  
5 to ensure that official policy was changed and officers were trained in a manner  
6 sufficient to address the practice and custom to violate First and Fourth Amendment  
7 rights.

8           101. PPD policy directs that bean bags should not be fired at closer than  
9 five feet and that the lower torso, legs, and buttocks should be the primary targets. The  
10 PPD policy on bean bags prohibits hitting the head, neck, and spine and warns that  
11 “shots to non-target areas” (head, neck, spine, thorax, and spine) “can result in fatal or  
12 serious injury.”

13           102. As for the use of pepper spray, PPD policy specifically orders, “**Do**  
14 **not** use within three (3) feet of a subject as soft tissue damage could occur.” (Emphasis  
15 in policy.)

16           103. PPD policy is silent on what officers and command staff must do to  
17 ensure that police warnings prior to dispersal are given and heard. Despite the legal  
18 necessity of prior warnings, the policy provides no guidance on what warnings or  
19 dispersal instructions must be given to protestors exercising their First Amendment  
20 rights.

21           104. Additionally, PPD policy does not restrict the use of less-lethal  
22 munitions on already dispersing crowds or individuals, and crowds that are retreating,  
23 nor or on persons who are using recording devices to lawfully document public police  
24 actions.

25           105. The failure to maintain adequate policies, and to regularly train PPD  
26 personnel on these and proper crowd control, led to the injuries suffered by Plaintiffs.  
27 The need for training in this instance was obvious.  
28

1           106. Defendant Williams and Defendant City have known of the  
2 deficiencies in PPD policies and training since at least 2010 when its officers violently  
3 shot pepper spray at protesters marching for immigration reform from Falcon Park to  
4 Tent City.

5           107. In October 2014, at demonstration in downtown Phoenix to protest  
6 police brutality, PPD officers indiscriminately and without warning fired pepper bullets  
7 at protestors.

8           108. Similarly, at a rally at Phoenix City Hall in response to the fatal  
9 shooting of Alton Sterling in July 2016, PPD repeatedly pepper sprayed protestors  
10 without warning as a “crowd-control measure.”

11           109. In all of the above actions, the City has acted with deliberate  
12 indifference to the rights of the public to engage in lawful expressive activity in  
13 traditional public fora within the City, and to be free from excessive force.

14           110. Despite the long history of unlawful PPD conduct at demonstrations,  
15 and the longstanding deficiencies in the training of PPD line and command staff on  
16 proper law enforcement conduct at demonstrations and regarding the use of force at  
17 peaceful demonstrations, the City failed to adequately train its officers and command  
18 staff prior to August 22, 2017, in the rights of demonstrators, lawful crowd control,  
19 dispersal orders, separating those engaged in unlawful conduct from those engaged in  
20 lawful conduct, the permissible use of “less-than-lethal” weapons in crowd  
21 control/demonstration situations, and the permissible use of force and circumstances  
22 justifying it in such situations. This failure amounted to deliberate indifference to the  
23 rights of persons with whom the police come into contact.

24           111. Defendant Williams had and delegated final responsibility and  
25 authority to persons within her command staff to act as the final policy maker at the  
26 Trump Protest to decide whether to declare the assembly unlawful, whether to give  
27 warnings or instructions to disperse, and whether to use force. Defendant Williams has  
28 stated that at all times during this protest the PPD officers and command staff on the

1 scene were acting at her direction. The persons who made these decisions acted as the  
2 delegated policy maker for the City of Phoenix on these issues. There was no time,  
3 opportunity, or procedure for anyone to review or revise the decisions made by these  
4 delegated policy makers prior to their final implementation.

### 5 **CLASS ALLEGATIONS**

6 112. The proposed damages class is defined as those persons who were  
7 present on August 22, 2017, at the Trump Protest area north of the Convention Center  
8 which was designated as the “free-speech zone” (the area for anti-Trump protestors  
9 bounded to the south by Monroe Street, 2nd Street to the west, and 3rd street to the east)  
10 and forced by PPD onto adjacent streets at any point between 8:25 and 10:00 P.M., who  
11 did not engage in any conduct justifying the Defendants’ use of force against them, and  
12 who were subjected to the PPD’s dispersal by the use of force, or other unlawful police  
13 activity arising from the police response to anti-Trump protesters. The proposed  
14 damages subclasses are defined as:

- 15 a. All persons who were unlawfully dispersed by the use of gas, pepper  
16 spray, pepper bullets, or other chemical agents;
- 17 b. All persons who were unlawfully dispersed by PPD by being struck with  
18 projectiles of any type.

19 113. The proposed injunctive relief class is defined as all persons who have  
20 in the past, including those present at the anti-Trump protest on August 22, 2017,  
21 between 8:25 and 10:00 P.M., or may in the future, participate in, or be present at,  
22 demonstrations within the City of Phoenix in the exercise of their rights of free speech  
23 and assembly without engaging in any conduct justifying the use of force.

24 114. In accordance with Federal Rule of Civil Procedure 23(a), the class  
25 and subclasses are so numerous that joinder of all members is impracticable. Plaintiffs  
26 do not know the exact number of class members. Defendants’ After-Action Report  
27 documents that more than 500 projectiles of some type were deployed, and this figure  
28 does not include pepper spray or tear gas deployed by PPD officers. Further, PPD

1 counted over 6,000 anti-Trump protesters assembled outside of the Convention Center.  
2 Thus, Plaintiffs are informed and believe and thereon allege that there are in excess of  
3 500 members of the class.

4 115. In accordance with Federal Rule of Civil Procedure 23(a), the claims  
5 that the class members' Fourth, First, and Fourteenth Amendment rights were violated  
6 raise common questions of law and fact.

7 116. In accordance with Federal Rule of Civil Procedure 23(a), the claims  
8 of the representative Plaintiffs are typical of the class they represent. Each  
9 representative Plaintiff was present in or about the area north of the Convention Center  
10 designated for assembly by anti-Trump protesters on August 22, 2017, between the  
11 hours of 8:25 P.M. and 10:00 P.M. Each representative Plaintiff was subjected to force  
12 in the streets north of the Convention Center or as he or she attempted to disperse from  
13 the assembly area, or as she or he attempted to disperse along Second, Third, Fourth,  
14 or Fifth Streets, or in the vicinity of those streets. No representative Plaintiff did  
15 anything to attack or threaten to attack any person, or interfere with any lawful action  
16 of anyone, or resist arrest, or escape. Except for their presence in the assembly area  
17 north of the Convention Center, and peaceful, verbal, non-violent protests, and  
18 observing Defendants, Plaintiffs did nothing to justify dispersal by the use of violent  
19 force. Defendants had no legal justification for ordering any representative Plaintiff to  
20 disperse and no legal justification for using force against any representative Plaintiff.

21 117. Each representative Plaintiff has the same interests and suffered the  
22 same type of injuries as the class members. The claims of each representative Plaintiff  
23 arose because of PPD's unlawful dispersal orders and use of force against the anti-  
24 Trump protesters. The claims of the representative Plaintiffs are based upon the same  
25 legal theories as the claims of the class members. Each representative class member  
26 suffered actual physical injuries as a result of Defendants' unlawful dispersal and use  
27 of force.  
28

1           118.     In accordance with Federal Rule of Civil Procedure 23(a), the  
2 representative Plaintiffs will fairly and adequately protect the interests of the class. The  
3 interests of the representative Plaintiffs are consistent with and not antagonistic to the  
4 interests of the class.

5           119.     In accordance with Federal Rule of Civil Procedure 23(b)(1)(A),  
6 prosecutions of separate actions by individual members of the class would create a risk  
7 that inconsistent or varying adjudications with respect to individual members of the  
8 class would establish incompatible standards of conduct for the parties opposing the  
9 class.

10          120.     In accordance with Federal Rule of Civil Procedure 23(b)(1)(B),  
11 prosecutions of separate actions by individual members of the class would create a risk  
12 of adjudications with respect to individual members of the class which would, as a  
13 practical matter, substantially impair or impede the interests of the other members of  
14 the class to protect their interests.

15          121.     In accordance with Federal Rule of Civil Procedure 23(b)(2), the  
16 Defendants have acted, threatened to act, and will continue to act on grounds generally  
17 applicable to the class, thereby making appropriate final injunctive relief or declaratory  
18 relief with respect to the class as a whole.

19          122.     In accordance with Federal Rule of Civil Procedure 23(b)(3), the  
20 questions of law or fact common to the members of the class predominate over any  
21 questions affecting only individual members.

22          123.     In accordance with Federal Rule of Civil Procedure 23(b)(3), this class  
23 action is superior to other available methods for the fair and efficient adjudication of  
24 the controversy between the parties. The interest of members of the class in individually  
25 controlling the prosecution of a separate action is low, in that most class members  
26 would be unable to individually prosecute any action at all. Plaintiffs are informed and  
27 believe and thereon allege that the amounts at stake for individuals are so small that  
28 separate suits would be impossible or impracticable. Plaintiffs are informed and believe



1 and thereon allege that most members of the class will not be able to find counsel to  
2 represent them. Plaintiffs are informed and believe that Defendants have no records, or  
3 virtually no records or evidence of any kind, justifying any use of force against  
4 individual anti-Trump protesters, and that Defendants' only justifications for any use  
5 of force against anti-Trump protesters is based on facts which apply to all anti-Trump  
6 protesters equally.

7       124. Plaintiffs are informed and believe that it is desirable to concentrate all  
8 litigation in one forum because all of the claims arise in the same location, date, and  
9 time, *i.e.*, in the vicinity of the streets and areas north of the Convention Center on  
10 August 22, 2017, between 8:25 P.M. and 10:00 P.M., and it will promote judicial  
11 efficiency to resolve the common questions of law and fact in one forum, rather than in  
12 multiple courts.

13       125. Plaintiffs do not know the identities of all of the class members.  
14 Plaintiffs are aware of the identities of approximately 200 class members. Plaintiffs are  
15 informed and believe and thereon allege that the identities of most class members may  
16 be obtained from organizations which sponsored, organized, and participated in the  
17 anti-Trump protesters including Puente, Poder, and other organizations. Plaintiffs are  
18 informed and believe and thereon allege that the identities of class members may be  
19 obtained from calls for assistance made to Puente, Poder, and other organizers.

20       126. In accordance with Federal Rule of Civil Procedure 23(b)(3), class  
21 members must be furnished with the best notice practicable under the circumstances,  
22 including individual notice to all members who can be identified through reasonable  
23 effort. Plaintiffs contemplate notice through organizational "hotlines" devoted to the  
24 events of August 22, 2017, distribution of leaflets in the downtown Phoenix area, social  
25 media, and at gatherings of the groups which organized the anti-Trump protesters, as  
26 well as calls to Plaintiffs' counsel's office in Arizona. Plaintiffs contemplate that the  
27 class notice will inform class members of the following:

- 28           a. The pendency of the class action, and the issues common to the class;



130. The conduct of each Defendant violated the rights of Plaintiffs and class members to not be subjected to the use of excessive force, as guaranteed by the Fourth and Fourteenth Amendments to the United States Constitution, and entitles Plaintiffs to bring suit and recover damages pursuant to 42 U.S.C. § 1983.

131. As a proximate result of the wrongful, malicious, and violent acts of Defendants, and the fright caused Plaintiffs, Plaintiffs and each of them, suffered physical injuries including being hit by projectiles and inhaling gas and pepper spray, experienced shock and injury to the nervous system, and were injured in their health, strength, and activity, suffering extreme and severe mental anguish and physical pain, anxiety, humiliation, and/or emotional distress.

132. By reason of the aforementioned acts and omissions of Defendants, Plaintiffs, and each of them, have incurred and will incur in the future, medical and related expenses, past and future lost earnings, loss of property, and/or other special and general damages, in an amount according to proof, but in excess of the jurisdictional limits of this Court.

133. In doing the foregoing wrongful acts, the individual Defendants, and each of them, acted in intentional, reckless, and/or callous disregard for the constitutional rights of Plaintiffs. The wrongful acts, and each of them, were willful, oppressive, fraudulent, and malicious.

**SECOND CLAIM FOR RELIEF  
FREEDOM OF SPEECH AND ASSOCIATION  
(First and Fourteenth Amendments, 42 U.S.C. § 1983)  
(All the class representatives, individually, and on behalf of the class they seek to  
represent, against all Defendants)**

134. Plaintiffs reallege and incorporate by reference as if fully set forth herein the allegations set forth previously and subsequently in this complaint.

135. The actions of the Defendants, as set forth above, violated Plaintiffs' rights to freedom of speech and association guaranteed by the First Amendment to the Constitution of the United States. Defendants acted to eliminate any possibility of

1 Plaintiffs' exercise of their rights to speech and association by the unnecessary and  
2 violent acts described above. Further, Defendants discriminated against protestors  
3 based on their viewpoint only ending the ability of those who had an anti-Trump  
4 message to speak, and provided no alternative means for continuing speech and  
5 assembly.

6 136. As a proximate result of the wrongful, malicious, and violent acts of  
7 Defendants, Plaintiffs and each of them, suffered compensable and irreparable injuries  
8 including having their rights to engage in the constitutionally protected activities of  
9 political speech and assembly truncated, extinguished and/or deprived them.

10 137. In doing the foregoing wrongful acts, the individual Defendants, and  
11 each of them, acted in intentional, reckless, and/or callous disregard for the  
12 constitutional rights of Plaintiffs. The wrongful acts, and each of them, were willful,  
13 oppressive, fraudulent and malicious.

14 **THIRD CLAIM FOR RELIEF**  
15 **DUE PROCESS**

16 **(Fourteenth Amendment, 42 U.S.C. § 1983)**  
17 **(All the class representatives, individually and on behalf of the class they seek to**  
18 **represent, against all Defendants)**

19 138. Plaintiffs reallege and incorporate by reference as if fully set forth  
20 herein the allegations set forth previously and subsequently in this complaint.

21 139. The actions of the Defendants including but not limited to targeting  
22 anti-Trump protesters and using excessive force without warning or declaring an  
23 unlawful assembly without regard to legitimate law enforcement objectives, were  
24 deliberately indifferent to the rights and well being of anti-Trump protesters as set forth  
25 above. The level of force and violence employed by Defendants shocks the conscience  
26 and violates Plaintiffs' right to due process of law guaranteed by the Fourteenth  
27 Amendment of the United States Constitution.

28 140. As a proximate result of the wrongful, malicious, and violent acts of  
Defendants, and the fright caused Plaintiffs, Plaintiffs and each of them, suffered

1 physical injuries including being hit by projectiles and inhaling gas and pepper spray,  
2 experienced shock and injury to the nervous system, and were injured in their health,  
3 strength, and activity, suffering extreme and severe mental anguish and physical pain,  
4 anxiety, humiliation, and emotional distress.

5 141. By reason of the aforementioned acts and omissions of Defendants,  
6 Plaintiffs, and each of them, have incurred and will incur in the future, medical and  
7 related expenses, past and future lost earnings, loss of property, and/or other special  
8 and general damages, in an amount according to proof, but in excess of the jurisdictional  
9 limits of this Court.

10 142. In doing the foregoing wrongful acts, the individual Defendants, and  
11 each of them, acted in intentional, reckless, and/or callous disregard for the  
12 constitutional rights of Plaintiffs. The wrongful acts, and each of them, were willful,  
13 oppressive, fraudulent and malicious.

14 **FOURTH CLAIM FOR RELIEF**  
15 **EQUAL PROTECTION**

16 **(First and Fourteenth Amendments, 42 U.S.C. § 1983)**  
17 **(All the class representatives, individually, and on behalf of the class they seek to**  
18 **represent, against all Defendants)**

19 143. Plaintiffs reallege and incorporate by reference as if fully set forth  
20 herein the allegations set forth previously and subsequently in this complaint.

21 144. The actions of the Defendants, as set forth above, violated Plaintiffs'  
22 Fourteenth Amendment rights to equal protection of the laws of the United States. The  
23 PPD discriminated against protestors based on their viewpoint, made no lawful  
24 declaration of unlawful assembly, dispersed protestors without warning or justification,  
25 and provided no alternative means for continuing speech and assembly.

26 145. The actions of Defendants impermissibly treated the Trump supporters  
27 better than other persons assembled for the Trump Protest in violation of both the First  
28 Amendment and the Equal Protection Clause of the Fourteenth Amendment by granting  
the Trump supporters, whose views it found acceptable, the use of a public forum, while

1 denying the same public forum to those wishing to express views less favored by  
2 Defendants.

3 146. As a proximate result of the wrongful, malicious, and violent acts of  
4 Defendants, and the fright caused Plaintiffs, Plaintiffs and each of them, suffered  
5 physical injuries including being hit by projectiles and inhaling gas and pepper spray,  
6 experienced shock and injury to the nervous system, and were injured in their health,  
7 strength and activity, suffering extreme and severe mental anguish and physical pain,  
8 anxiety, humiliation, and emotional distress.

9 147. By reason of the aforementioned acts and omissions of Defendants,  
10 Plaintiffs, and each of them, have incurred and will incur in the future, medical and  
11 related expenses, past and future lost earnings, loss of property, and other special and  
12 general damages, in an amount according to proof, but in excess of the jurisdictional  
13 limits of this Court.

14 148. In doing the foregoing wrongful acts, the individual Defendants, and  
15 each of them, acted in intentional, reckless, and/or callous disregard for the  
16 constitutional rights of Plaintiffs. The wrongful acts, and each of them, were willful,  
17 oppressive, fraudulent and malicious.

#### 18 **PRAYER FOR RELIEF**

19 WHEREFORE, Plaintiffs seek the following relief:

- 20 A. Declaratory relief concerning the unconstitutionality of Defendants' actions  
21 as described herein;
- 22 B. A preliminary and permanent injunction prohibiting Defendants from  
23 engaging in any of the unconstitutional behaviors as described herein and to  
24 put into place safeguards sufficient to ensure that they do not continue in the  
25 future;
- 26 C. Compensatory, general, statutory, and special damages for themselves and the  
27 class they represent in an amount according to proof;  
28

- 1 D. Exemplary damages against each of the individual Defendants in an amount  
2 sufficient to deter and make an example of those Defendants;  
3 E. Attorneys' fees and costs, and costs of suit, as provided by 42 U.S.C. 1988  
4 and any other applicable authority; and  
5 F. Such other and further relief as this Court deems just and proper.

6 DATED this 4th day of September, 2018.

7  
8 ACLU FOUNDATION OF ARIZONA

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